

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

2018 SEP 11 PM 4:29

CLERK'S DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY G

DANIEL BRUNO, individually and behalf  
of others similarly situated,

Plaintiff,

vs.

EQUIFAX INFORMATION SERVICES, LLC;  
GENEVA FINANCIAL SERVICES, INC; JOHN  
MCGINLEY, ANDY MITCHELL and REBS  
SUPPLY, INC.

Defendants.

Case No.

**A18MC0774 LY**

**PLAINTIFF'S MOTION TO COMPEL RMB WORLDWIDE'S COMPLIANCE WITH  
THIRD PARTY-SUBPOENAS FOR PRODUCTION OF DOCUMENTS AND  
DEPOSITION**

Plaintiff, Daniel Bruno ("Bruno" or "Plaintiff"), individually and on behalf of others similarly situated, by and through its attorneys, Messer Strickler, Ltd., and pursuant to Federal Rule of Civil Procedure 45 and Local Rule CV-7 hereby move this Court for an Order compelling RMB Worldwide Enterprises, LLC ("RMB") to produce all documents as requested in the subpoena served on RMB on April 12, 2018, and to produce a Rule 30(b)(6) representative to be deposed pursuant to the subpoena served on RMB June 14, 2018, and in support of which states as follows:

**I. RELEVANT FACTS**

The instant action originates in the Federal District Court for the Eastern District of California, whereby Plaintiff, individually, and on behalf of others similarly situated, sued the Defendants alleging violations under the Fair Credit Reporting Act ("FCRA"). *Bruno v. Equifax*, No. 2:17-cv-00327-WBS-EFB (E.D. Cal. 2017). On April 12, 2018, Plaintiff served a third-party subpoena

upon RMB via e-mail and U.S. first class mail requesting the production or inspection of documents. *See, Exhibit A.* On June 14, 2018, Plaintiff served RMB with a subpoena to produce a Rule 30 (b)(6) representative to be deposed. *See, Exhibit B.* This motion is before this Court because RMB is a resident of Austin, Texas and therefore the Federal District Court for the Western District of Texas has jurisdiction. As a result, Plaintiff moves this Court to compel RMB to produce the documents requested in the subpoena and a Rule 30(b)(6) deponent for deposition based on the aforementioned subpoenas issued by the Federal District Court in California.

## II. STANDARD

The enforcement of subpoenas is governed by Rule 45 of the Federal Rules of Civil Procedure. *Marquette Transp. Co. Gulf-Island, LLC v. M/V Chembulk Westport*, 2016 U.S. Dist. LEXIS 19777, \*8 (E.D. La. 2016). Under Rule 45, a federal court may issue a subpoena for a witness anywhere in the United States. Fed. R. Civ. P. 45(b)(2). Depending on where the subpoena recipient is located, counsel may need to seek enforcement in the issuing court or in another court with jurisdiction over the recipient. *See* Fed. R. Civ. P. 45 (d)(2)(B)(i)(g). Fed. R. Civ. P. 45 requires that disputes related to non-party subpoenas be resolved locally, to avoid imposing undue travel or expense burdens on non-parties who are challenging a subpoena. *HCB Fin. Corp. v. McPherson*, 2015 U.S. Dist. LEXIS 6994 \*1-2 (W.D. Tx. 2015); *See, e.g.,* Fed. R. Civ. P. 45(d)(2)(B)(i) (directing that motion to compel be filed in “the district in which compliance is required”). To enforce its order, the issuing court may transfer the order to the court where the motion was made. Fed. R. Civ. P. 45 (f). Pursuant to Local Rule CV-7 (i), the court may refuse to hear or may deny a nondispositive motion unless the movant advises the court within the body of the motion that counsel for the parties have first conferred in a good-faith attempt to resolve the matter by agreement, and further, certifies the specific reason that no agreement could be made.

### **III. RMB MUST BE COMPELLED TO RESPOND TO PRODUCE DOCUMENTS AND TO PRODUCE ITS RULE 30(b)(6) DEPONENT FOR DEPOSITION**

On April 12, 2018, Plaintiff subpoenaed RMB to produce documents and information regarding the instant case. *See, Exhibit A.* Pursuant to the terms of the subpoena, RMB was required to produce relevant documents and information on April 20, 2018, detailing RMB's relationship with Geneva Motors and its role as processing agent. *See, rider attached hereto Exhibit A, pgs. 5-9.* Further, on June 14, 2018, Plaintiff subpoenaed RMB to appear for a deposition at Veritext Legal Solutions located in Austin, Texas and required RMB to appear for said deposition on July 9, 2018 at 10:00 a.m. *See, Exhibit B.* The subpoena issued by Plaintiff required RMB to testify regarding any communications and documents detailing the relationship between RMB and Geneva Motors, most notably RMB's role as a processing agent for orders for prescreen lists. *See, rider attached hereto Exhibit B, pgs. 2-3.* Even though both subpoenas were correctly issued by the United States District Court for the Eastern District of California, RMB failed to comply with the requirements set forth in both. Instead, on June 15, 2018, counsel for RMB wrote Plaintiff's counsel objecting to the subpoenas. RMB's counsel's objection, however, was misplaced because it was based on a preliminary order issued in the case on May 3, 2018, which temporarily denied Plaintiff's request for discovery from defendant Equifax regarding third party entities, including RMB. Since that time, however, the Court has allowed Plaintiff to seek discovery from Equifax regarding third party entities, including RMB, effectively reversing its May 3, 2018 order. Finally, since August 2018, Plaintiff's counsel has, on several occasions, attempted a meet and confer pursuant to Local Rule Cv-7 (i) in hopes of resolving this matter. *See, Exhibit C.* Namely, Plaintiff's counsel has, for some time now, made reasonable efforts to compromise on the scope of the deposition topics requested by Plaintiff. *See, Exhibit C.*

Here, Plaintiff seeks enforcement of the subpoena issued by the United States District Court for the Eastern District of California in the Western District of Texas because this Court has jurisdiction over RMB, being that RMB is a resident of Austin Texas. Namely, RMB's principal place of address is 706 Rio Grande Street, Austin, TX 78701. *See, Exhibits A & B.* Further, Fed. R. Civ. P. 45(d)(2)(B)(i) directs that the motion to compel be filed in the district in which compliance is required. In the present case, compliance is required in the Western District of Texas, Austin Division because RMB is located in Austin, Texas. *See, Exhibit B.*

### **CONCLUSION**

RMB has unreasonably and without justification failed to cooperate in the discovery process. RMB has failed to produce documents and to produce its Rule 30(b)(6) deponent for deposition. Accordingly, this Court should 1) order the enforcement of Plaintiff's subpoenas requesting RMB to produce documents and 2) order the enforcement of Plaintiff's subpoena requiring RMB produce its Rule 30(b)(6) deponent for deposition. For the aforementioned reasons, Plaintiff, Daniel Bruno, individually and on behalf of others similarly situated, respectfully requests that this Honorable Court enter an order granting Plaintiff's Motion to Compel as follows:

1. Compelling RMB World Enterprises, LLC, to produce to Plaintiff complete responses to Plaintiff's Request for Production of Documents and Information;
2. Compelling RMB World Enterprises to produce a Rule 30(b)(6) deponent for deposition;
3. Hold RMB Worldwide Enterprises in contempt pursuant to F.R.C.P. 45 (g) for failure to obey Plaintiff's Subpoenas; and

4. Compelling RMB World Enterprises to pay attorney's fees and all costs incurred in bringing this proceeding before the Court.

Dated: September 10, 2018

Respectfully submitted,

**DANIEL BRUNO**

By:  /s/ Keith Wier

Keith Wier

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of (title of document) Motion to Compel  
was served by (method of delivery) email  
on (date) 9/11/2018 to:

Name:

(Fax/E-Mail)

Address:

Name:

Fax/E-Mail

Address:

Name:

Fax/E-Mail

Address:

Name:

Fax/E-Mail

Address:

Name:

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